

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

TIMOTHY C. HARRY and KAREN C.
HARRY,

Plaintiffs,

v.

AMERICAN BROKERS CONDUIT, APEX
MORTGAGE SERVICES, FIDELITY
NATIONAL TITLE GROUP, AMERICAN
HOME MORTGAGE SERVICING, INC.,
DEUTSCHE BANK NATIONAL TRUST
COMPANY AS TRUSTEE FOR AMERICAN
HOME MORTGAGE ASSETS TRUST 2007-2
MORTGAGE-BACKED PASS-
CERTIFICATES, SERIES 2007-2,
HOMEWARD RESIDENTIAL, MORTGAGE
ELECTRONIC RECORDING SYSTEM, INC.,
OCWEN LOAN SERVICING and KORDE &
ASSOCIATES,

Defendants.

CIVIL ACTION NO. 16-10895

OCWEN LOAN SERVICING, LLC’S MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56, the Defendant, Ocwen Loan Servicing, LLC (“Ocwen”), moves for summary judgment on the remaining count, Count IV, in the Plaintiffs, Timothy C. Harry and Karen C. Harry’s (“Plaintiffs”), Amended Complaint. Ocwen is entitled to summary judgment on the last remaining count for violations of the Federal Fair Debt Collection Practices Act (“FDCPA”) because the undisputed facts of this case controvert Plaintiffs’ erroneous allegation that their mortgage loan is void *ab initio*. Moreover, Plaintiffs fail to present any evidence to demonstrate that the particular correspondences at issue violated the FDCPA: no misrepresentation as to the amount, character or legal status of the mortgage loan. Finally, Plaintiffs have failed to obtain or present any evidence to demonstrate that Ocwen used “unfair

or unconscionable means” in collections and, as such, Plaintiffs cannot establish any violation of the FDCPA. Accordingly, with no genuine issues of material fact in this action, Ocwen is entitled to summary judgment. In further support of this Motion for Summary Judgment, Ocwen files herewith and incorporate by reference its Memorandum in Support of their Motion for Summary Judgment and Statement of Undisputed Material Facts and the accompanying exhibits.

WHEREFORE, Ocwen Loan Servicing, LLC respectfully requests that the Court grant its Motion for Summary Judgment and enter judgment in favor of Ocwen on Count IV of the Plaintiffs’ Amended Complaint.

Respectfully submitted,

Attorneys for Defendant,

OCWEN LOAN SERVICING, LLC,

/s/ Vanessa V. Pisano

Samuel C. Bodurtha, BBO #665755
Vanessa V. Pisano, BBO #679649
HINSHAW & CULBERTSON LLP
28 State Street, 24th Floor
Boston, MA 02109
Tel: (617) 213-7000 / Fax: (617) 213-7001
Email: sbodurtha@hinshawlaw.com
vpisano@hinshawlaw.com

CERTIFICATE OF SERVICE

I, Vanessa V. Pisano, hereby certify that the documents filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 29, 2018.

/s/ Vanessa V. Pisano
Vanessa V. Pisano